

IN RE: APPEAL OF JOSE A. VASQUEZ RELATIVE TO A PROPERTY LOCATED AT 1262 CHURCH STREET, CITY OF READING, BERKS COUNTY, PENNSYLVANIA	: BEFORE THE ZONING HEARING : BOARD OF THE CITY OF READING, : PENNSYLVANIA : : APPEAL NO. 2019-10 : : VARIANCE, INTERPRETATION : AND/OR SPECIAL EXCEPTION
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**DECISION OF THE ZONING HEARING
 BOARD OF THE CITY OF READING**

AND NOW, this 10th day of July, 2019, hearings having been held on April 10, 2019, and June 12, 2019, upon the application of Jose A. Vasquez, notice of such hearing having been first sent and advertised in accordance with the provisions of the Pennsylvania Municipalities Planning Code and the City of Reading Zoning Ordinance, as amended, the Zoning Hearing Board of the City of Reading (hereinafter referred to as the “Zoning Board”) renders the following decision:

FINDINGS OF FACT

The Zoning Board finds the following facts:

1. The Applicant is Jose A. Vasquez, an adult individual residing at 1019 South Street, Reading, Berks County, Pennsylvania (hereinafter referred to as the “Applicant”).
2. Applicant is the fee simple owner of property located at 1262 Church Street, City of Reading, Berks County, Pennsylvania (hereinafter referred to as the “Subject Property”).
3. The Subject Property is located in the R-3 Residential Zoning District as that term and district is defined by the Zoning Ordinance of the City of Reading, as amended (hereinafter referred to as the “Zoning Ordinance”).
4. Applicant seeks a time extension from the Zoning Board’s Decision issued on July 15, 2014 (Appeal No. 2014-06), which granted relief to convert the first floor of the Subject Property into a convenience store. A copy of the Decision dated July 15, 2014, is attached as Exhibit “A” and made a part hereof.

5. Applicant also seeks approval of certain modifications from the original approved project.

6. Applicant requests the following modifications:

a. Applicant proposes an addition to the rear of the building located on the Subject Property for a kitchen as well as an addition on the north side of the building which will encroach into the public right of way.

b. The proposed building addition to the rear of the Subject Property eliminates the one off-street parking space that was set forth on the original plan submitted in 2014. Applicant has obtained permission from the owner of the property located at 1235 North 5th Street to provide one off-street parking space for the use of the Subject Property.

c. Applicant no longer resides in the apartment at the Subject Property which was a requirement under the July 15, 2014, Decision. Applicant testified that his mother resides in the apartment at the Subject Property and she will be assisting Applicant in the operation of the convenience store.

7. The proposed kitchen addition and encroachment into the public right of way are not opposed by the Department of Public Works and will not create a detrimental condition to the travelling public or neighboring properties.

8. The Board finds the proposed relief will not be a detriment to the health, safety and welfare of the neighborhood.

9. The Board concludes as a matter of law the proposed relief is necessary to allow the Applicant to reasonably use the Subject Property.

10. There were no objections.

DISCUSSION

Applicant seeks a time extension from the Zoning Board's Decision issued on July 15, 2014 (Appeal No. 2014-06), which granted relief to convert the first floor of the Subject Property into a

convenience store and approval of certain modifications from the original approved project. The Board finds the proposed relief is the minimum deviation from the strict terms of the Zoning Ordinance which will allow the Subject Property to be reasonably used by the Applicant.

CONCLUSIONS OF LAW

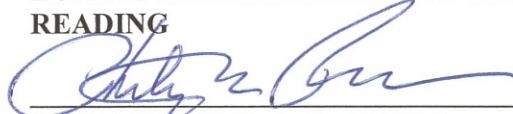
1. Applicant is Jose A. Vasquez.
2. The Subject Property is located at 1262 Church Street, City of Reading, Berks County, Pennsylvania.
3. The Subject Property is located in the R-3 Residential Zoning District.
4. Applicant seeks a time extension from the Zoning Board's Decision issued on July 15, 2014 (Appeal No. 2014-06), which granted relief to convert the first floor of the Subject Property into a convenience store and approval of certain modifications from the original approved project.
5. The Zoning Board is permitted to grant applications for variances and/or special exceptions and to interpret the Zoning Ordinance.
6. After reviewing the Applicant's request in detail, the Zoning Hearing Board enters the following Decision:
7. Applicant is granted a one (1) year extension of the relief granted in its Decision dated July 15, 2014, subject to the following modifications and conditions:
 - i. Applicant is granted a variance from the setback provisions of the Zoning Ordinance;
 - ii. The Board waives the off-street parking requirement.
 - iii. The apartment at the Subject Property must be occupied by Applicant or a family member.
 - iv. Applicant must first obtain the approval from the City of Reading Department of Public Works in the form of a written agreement to encroach into the public right of way.
 - v. Applicant shall comply with all relevant building and occupancy codes and ordinances as well as the plans and testimony submitted before the Zoning Board.

vi. Applicant may not use, expand, alter or otherwise use the Subject Property inconsistently with the contents of this Decision without making application requesting further relief from the Zoning Board.

vii. Failure to comply with any of these above-referenced conditions shall mean the immediate revocation of the relief granted herein.

The decision of this Board is by a vote of 4 to 0.

**ZONING HEARING BOARD OF THE CITY OF
READING**




PHILIP RABENA, CHAIRMAN



THOMAS FOX



JEFFREY E. GATTONE



JARED BARCZ

WILLIAM HARST

EXHIBIT "A"

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IN RE: APPEAL OF JOSE A. VASQUEZ : BEFORE THE ZONING HEARING
RELATIVE TO A PROPERTY LOCATED AT : BOARD OF THE CITY OF READING,
1262 CHURCH STREET, CITY OF READING, : PENNSYLVANIA
BERKS COUNTY, PENNSYLVANIA :
: APPEAL NO. 2014-06
: VARIANCE, INTERPRETATION
: AND/OR SPECIAL EXCEPTION

**DECISION OF THE ZONING HEARING
BOARD OF THE CITY OF READING**

AND NOW, this 15TH day of July, 2014, a hearing having been held on June 11, 2014, upon the application of Jose A. Vasquez, notice of such hearing having been first sent and advertised in accordance with the provisions of the Pennsylvania Municipalities Planning Code and the City of Reading Zoning Ordinance, as amended, the Zoning Hearing Board of the City of Reading (hereinafter referred to as the "Zoning Board") renders the following decision:

FINDINGS OF FACT

The Zoning Board finds the following facts:

1. The Applicant is Jose A. Vasquez, an adult individual residing at 1262 Church Street, Reading, Berks County, Pennsylvania 19601 (hereinafter referred to as the "Applicant").
2. Applicant is the fee simple owner of property located at 1262 Church Street, City of Reading, Berks County, Pennsylvania (hereinafter referred to as the "Subject Property").
3. The Subject Property is located in the R-3 Residential Zoning District as that term and district is defined by the Zoning Ordinance of the City of Reading, as amended (hereinafter referred to as the "Zoning Ordinance").
4. The Subject Property currently consists of two residential dwelling units on the first floor and a third residential dwelling unit on the upper two floors.

5. Applicant seeks a variance under Sections 600-406(D), 600-804(B) and 600-1603(A)(33) of the Zoning Ordinance to convert the first floor of the Subject Property into a convenience store and maintain the residential dwelling unit on the upper floors.

6. Applicant testified he resides in the dwelling unit on the upper floors.

7. Applicant stated the first floor of the Subject Property had been used for commercial purposes many years before it was converted into three residential dwelling units.

8. Applicant testified when he purchased the Subject Property in July 2013 it consisted of three residential dwelling units.

9. Applicant testified the hours of operation for the convenience store would be from 7:00 a.m. to 10:00 p.m., prevailing time, seven (7) days a week.

10. Applicant testified he would have two employees in addition to himself and his wife.

11. Applicant stated there will be no cooking at the Subject Property.

12. The Board finds the proposed relief will not be a detriment to the health, safety and welfare of the neighborhood.

13. The Board concludes as a matter of law the proposed relief is necessary to allow the Applicant to reasonably use the Subject Property.

14. There were no objections.

DISCUSSION

Applicant desires to convert the first floor of the Subject Property into a convenience store. The Board finds the proposed relief is the minimum deviation from the strict terms of the Zoning Ordinance which will allow the Subject Property to be reasonably used by the Applicant.

CONCLUSIONS OF LAW

1. Applicant is Jose A. Vasquez.

2. The Subject Property is located at 1262 Church Street, City of Reading, Berks County, Pennsylvania.

3. The Subject Property is located in the R-3 Residential Zoning District.

4. Applicant seeks relief to convert the first floor of the Subject Property into a convenience store pursuant to Sections 600-406(D), 600-804(B) and 600-1603(A)(33) of the Zoning Ordinance.

5. The Zoning Board is permitted to grant applications for variances and/or special exceptions and to interpret the Zoning Ordinance.

6. After reviewing the Applicant's request in detail, the Zoning Hearing Board enters the following Decision:

a. Applicant is granted a variance to convert the first floor of the Subject Property into a convenience store under the relevant sections of the Zoning Ordinance.

b. Applicant is permitted to operate the convenience store seven (7) days a week during the hours of 7:00 a.m. to 10:00 p.m., prevailing time.

c. The owner of the Subject Property must reside in the upper residential unit.

d. Applicant's parking plan and design shall conform to the requirements set forth by the Zoning Administrator of the City of Reading.

e. Applicant shall install security cameras at the Subject Property.

f. Applicant shall not allow video machines, soda machines, vending machines, jukeboxes, and ATM machines at or on the Subject Property.

g. Applicant must provide appropriate trash receptacles on the interior and exterior of the Subject Property.

h. Applicant is prohibited from selling alcohol at the Subject Property.

i. Alcohol consumption is prohibited at the Subject Property.

j. Extensive litter on the Subject Property shall be grounds for revocation of the special exception.

k. Applicant shall not block the front window of the Subject Property for safety and security.

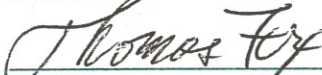
l. The relief granted herein is conditioned upon Applicant complying with all relevant building and occupancy codes and ordinances as well as the plans and testimony submitted before the Zoning Board.

m. Applicant may not use, expand, alter or otherwise use the Subject Property inconsistently with the contents of this Decision without making application requesting further relief from the Zoning Board.

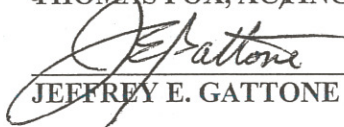
n. Failure to comply with any of these above-referenced conditions shall mean the immediate revocation of the relief granted herein.

The decision of this Board is by a vote of 3 to 0.

ZONING HEARING BOARD OF THE CITY OF
READING



THOMAS FOX, ACTING CHAIRMAN



JEFFREY E. GATTONE

JARED BARCZ



WILLIAM HARST